

# STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION  
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INDIANAPOLIS, INDIANA 46204-2764

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**FILED**

**SEP 15 2003**

INDIANA UTILITY  
REGULATORY COMMISSION

VERIFIED PETITION OF THE BOARD )  
OF COMMISSIONERS OF BOONE )  
COUNTY, INDIANA TO REVOKE THE )  
CERTIFICATE OF TERRITORIAL )  
AUTHORITY ISSUED TO BOONE )  
COUNTY UTILITIES, LLC )

CAUSE NO. 42131

IN THE MATTER OF THE PETITION )  
OF BOONE COUNTY UTILITIES, LLC. )  
FOR APPROVAL OF VARIOUS )  
NON-RECURRING CHARGES AND FOR )  
THE APPROVAL OF THE TIMING OF )  
COLLECTION OF SUCH FEES )

CAUSE NO. 42131-S1

IN THE MATTER OF THE PETITION OF )  
BOONE COUNTY UTILITIES, LLC FOR )  
AUTHORITY TO INCREASE ITS RATES )  
AND CHARGES FOR WATER AND SEWER )  
SERVICES IN RURAL AREAS OF BOONE )  
COUNTY, INDIANA; AND FOR APPROVAL )  
OF NEW SCHEDULES OF RATES AND )  
CHARGES APPLICABLE THERETO )

CAUSE NO. 42461

PETITION OF BOONE COUNTY )  
UTILITIES, LLC FOR AN EXPANSION OF )  
ITS CERTIFICATE OF TERRITORIAL )  
AUTHORITY TO RENDER SEWAGE )  
DISPOSAL SERVICE IN RURAL AREAS )  
OF BOONE COUNTY, INDIANA )

CAUSE NO. 42477

You are hereby notified that the Indiana Utility Regulatory Commission ("Commission") has, on this date, caused the following entry to be made:

On September 8, 2003, the Commission received written notice of filing by Boone County Utilities ("BCU") of a Voluntary Petition under Chapter 11 of the Bankruptcy Code and a notice of automatic stay of all proceedings, pursuant to 11 U.S.C. 362 *et seq.*;

The Presiding Officers note that 11.U.S.C. 362(b)(4) provides that "The filing of a petition under section 301 . . . of this title . . . does not operate as a stay . . . of the commencement or continuation of an action or proceeding by a governmental unit . . . to enforce such governmental unit's or organization's police and regulatory power, including the enforcement of a judgment other than a money judgment, obtained in an action or proceeding by

the governmental unit to enforce such governmental unit's or organization's police or regulatory power . . . .";

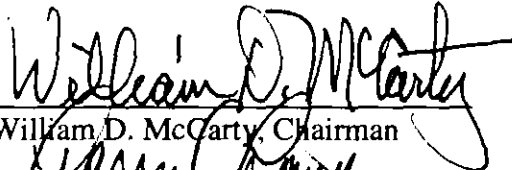
BCU is a "public utility" as defined in the Indiana Public Service Commission Act, as amended, Ind. Code § 8-1-2-1, *et seq.*, is subject to the jurisdiction of the IURC, and is engaged in the business of providing water and sanitary sewage disposal service to the public in rural areas of Boone County, Indiana, serving approximately 600 residential and 8 industrial customers as sole providers, all pursuant to authorities granted and regulated by this Commission pursuant to state law.

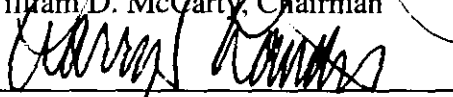
On June 5, 2002, the IURC invoked its jurisdiction under Ind. Code § 8-1-30-3 and initiated an investigation to review: (1) BCU's technical, financial and managerial capacity; (2) the physical condition and capacity of BCU's plant; (3) BCU's compliance with Indiana or federal law or the IURC's orders; and (4) Debtor's provision of service to its customers, and on March 12, 2003, the Commission issued an interim order in consolidated cause numbers 42131 and 42093 ("Interim Order") in which it required BCU to make substantial changes in its business operations. The Interim Order required BCU to comply with specific requirements in order to satisfy the Commission that all statutory obligations have been and will continue to be fulfilled by BCU as a public utility, and on July 3, 2003, the Commission issued a docket entry scheduling an evidentiary hearing to begin on September 22, 2003, to review BCU's compliance with the Interim Order.

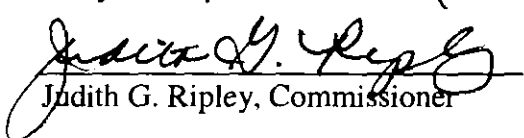
The scheduled compliance hearing represents a legitimate exercise of the Commission's regulatory and police powers, and the Commission has a duty to proceed with its compliance investigation to protect the health, safety, and welfare of all customers served by BCU, and, as such is exempted from the provisions of 11.U.S.C.362(a), pursuant to 11.U.S.C.362(b)(4). Given the nature of the investigation pending before the Commission, further delay in the determination of compliance could be detrimental to the public interest.

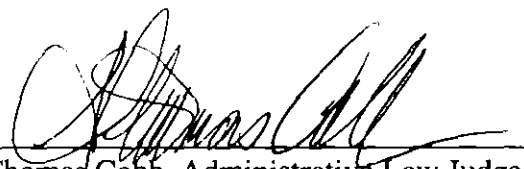
Therefore, the Presiding Officers direct all matters relating to BCU and pending before this Commission and to proceed as scheduled.

**IT IS SO ORDERED.**

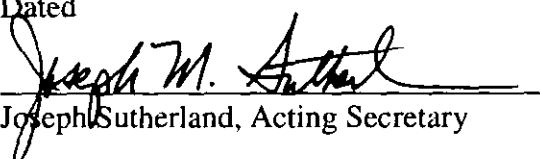
  
William D. McCarty, Chairman

  
Larry S. Landis, Commissioner

  
Judith G. Ripley, Commissioner

  
Thomas Cobb, Administrative Law Judge

9/15/03  
Dated

  
Joseph M. Sutherland, Acting Secretary